

Electricity Excise Tax is imposed on self-assessing purchasers at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See, 35 ILCS 640/2-4. (This is a GIL).

April 23, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated January 11, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We would like to confirm the basis of electricity excise tax in circumstances where the electricity is produced in a co-generation facility that is partially owned by a manufacturer who uses 100% of the electricity produced in his manufacturing plant.

For demonstration purposes, assume that the manufacturer would pay \$1.00 per kwh if the electricity were purchased from an unrelated third party. However, the manufacturer owns 25% of the co-generation facility, so the amount paid for the electricity is equal to \$.75 per kwh or 75% of market value. What would be the purchase price under 35 ILCS 640/2-3(d)?

My telephone number is #### and my fax is ####. Thanks for your help.

We are answering your letter with the assumption that your question concerns taxpayers who have registered as a self-assessing purchasers under Section 2-10.5 of the Electricity Excise Tax Law. 35 ILCS 640/2-10.5. Please note that taxpayers under the Electricity Excise Tax Law who are not registered as self-assessing purchasers incur Electricity Excise Tax liability based upon the number of kilowatt-hours purchased for use or consumption and not upon the purchase price of that electricity or electric service. See Section 2-4 of the Electricity Excise Tax Law, 35 ILCS 640/2-4.

The tax is imposed on self-assessing purchasers at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See subsection (a) of Section 2-4 the Electricity Excise Tax Law. Determinations regarding how purchasers in co-generation situations determine their purchase price are normally very fact specific and cannot be

addressed in the context of a General Information Letter. Some of the information that will affect such a determination are the relationships and the contractual obligations of the parties involved in the co-generation.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.